

ESTTA Tracking number: **ESTTA186850**

Filing date: **01/16/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Good Sports, Inc.
Granted to Date of previous extension	01/23/2008
Address	349 Progress Drive Manchester, CT 06045 UNITED STATES
Attorney information	Mario G. Ceste Law Offices of Mario G. Ceste LLC PO Box 82 Wallingford, CT 06492 UNITED STATES mgcpls@usa.net Phone:203-678-6418

### Applicant Information

Application No	78956857	Publication date	09/25/2007
Opposition Filing Date	01/16/2008	Opposition Period Ends	01/23/2008
Applicant	DAL-CON PROMOTIONS, INC. Suite 141 16 Technology Drive Irvine, CA 92618 UNITED STATES		

### Goods/Services Affected by Opposition

Class 016. All goods and services in the class are opposed, namely: Photographs; stationery; decals; stickers; photographic albums; paper bags; bookmarks; calendars; paper coasters; comic books; books, magazines, newsletters and brochures all in the field of motorcycles, motorcycle events and motorcycle rallies; paper flags; folders; greeting cards; maps; modeling clay; note pads; pens; pencils; post cards; fine art prints and artistic posters; stencils; and printed tickets
Class 025. All goods and services in the class are opposed, namely: Wearing apparel, namely, t-shirts, sweatshirts, tank tops, woven shirts, sweaters, cardigans, vests, jackets, pants, sweatpants, shorts, skirts, dresses, blouses, coats, belts, and underwear; headwear, namely, hats and caps; footwear, namely, shoes, boots, and sneakers
Class 026. All goods and services in the class are opposed, namely: Lace trimming; embroidered patches for clothing; patches, badges, pins and buttons for clothing; belt clasps, brooches as accessories, not of precious metal and not as imitation jewelry; clothing buckles; and prize ribbons

### Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
The mark is primarily geographically descriptive	Trademark Act section 2(e)(2)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Other	Opposer has reasonable basis that it will suffer damage because it sells similar goods bearing the proposed mark.

Attachments	080111 Laughlin 2008 Opposition Brief.pdf ( 7 pages )(75169 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/mario g ceste/
Name	Mario G. Ceste
Date	01/16/2008

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD**

GOOD SPORTS, INC.

Opposer, : Trademark Application Ser.No.  
78/956857  
Mark: LAUGHLIN 2008

Published: September 25, 2007

v. : Opposition No. \_\_\_\_\_

DAL-CON PROMOTIONS, INC.

Applicant. : Date: January 16, 2008

\_\_\_\_\_/

**NOTICE OF OPPOSITION**

Commissioner of Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Sir:

Good Sports, Inc. , a Connecticut corporation, with a business address of 349 Progress Drive, Manchester, Connecticut 06045 (“GOOD SPORTS” or “OPPOSER”) believes that it will be damaged by registration of the mark LAUGHLIN 2008 shown in Application Serial No. 78/956857 and hereby opposes the same.

The application as published in the Official Gazette may be summarized as follows:

Trademark Application Serial No.: 78/956857  
Filed: August 21, 2006  
Applicant: Dal-Con Promotions, Inc.  
Mark: LAUGHLIN 2008  
For:  
International Class: 016, 025 & 026  
Published: September 25, 2007

(hereinafter referred to as “the ‘857 Application”).

GOOD SPORTS opposes the ‘857 Application in the international classes of IC016, IC025 and IC026.

As grounds for opposition, GOOD SPORTS alleges:

1. On January 7, 2007, Applicant filed the ‘636’ Application, on the basis of intent-to-use, seeking registration for the mark “LAUGHLIN 2008” for use in connection with decals and other various items in International Class 016, jackets and shirts in International Class 025, and patches and pins in International Class 026. On information and belief, Applicant is not currently selling items with the aforementioned mark.

2. Opposer GOOD SPORTS has for many years been engaged in the design, development, manufacture and marketing of souvenir and apparel items which include but are not limited to decals, headwear, jackets, shirts, patches, pins, and buckles.

3. Since at least as early as 1994, Opposer Good Sports has been continuously selling the aforementioned products in Laughlin, Nevada at motorcycle events using at the name “LAUGHLIN” and the chronological year.

3. Opposer Good Sports has a real interest in the outcome of the application and has a reasonable basis for believing they will suffer damage if the proposed mark is registered.

4. Opposer Good Sports intends to use the same mark for related goods and allowing the Application to proceed to registration will prohibit the OPPOSER from such use.

### **First Opposition Basis**

#### **The Mark is Geographically Descriptive**

. 5. Opposer Good Sports repeats and re-alleges paragraphs 1 through 4 above.

6. Laughlin is the name of a city in the state of Nevada.

7. The name Laughlin is primarily recognized as identifying the city of Laughlin, Nevada.

8. The ‘857 Application requests registration for a mark which is geographically descriptive.

9. Section 2(e)(2) of the Lanham Act bars registration of a mark that is primarily geographically descriptive.

10. The numerals “2008” which represent the year is a generic and highly descriptive term.

11. The combination of the words “Laughlin” and “2008” remains geographically descriptive. The words merely refer to a location and a commemorative year such as when the goods are sold.

### **Second Opposition Basis**

#### **The Mark is Merely Descriptive**

12. Opposer Good Sports repeats and re-alleges paragraphs 1 through 11.

13. The name Laughlin is merely descriptive when used in conjunction with the products identified in the Application.

14. The word “2008” is merely descriptive of a chronological year.

15. The combination of the words “LAUGHLIN” and “2008” is merely descriptive.

### **Third Opposition Basis**

#### **The Mark has not become distinctive of the Applicant’s goods under Section 2(f)**

16. Opposer Good Sports repeats and re-alleges paragraphs 1 through 15.

17. Opposer Good Sports, along with other, has used the name Laughlin continuously since at least as early as 1994 in connection with the sale of goods at events in Laughlin Nevada. The Opposer has sold goods identified with the name Laughlin in Nevada, throughout the United States at retail stores and from its website.

18. The mark in the ‘857 Application is not the same mark as the Applicant’s registration nos. 3169273, 3169274, 3174416, and 3174418. The present

application and the Applicant's aforementioned registrations only share the common word "LAUGHLIN".

19. The Applicant's claim of acquired distinctiveness under Section 2(f) of the Lanham Act is false because the present mark and the prior registrations are materially different.

#### **Fourth Opposition Basis**

##### **The Applicant has attempted to obtain registration of the Mark by fraud**

20. Opposer Good Sports repeats and re-alleges paragraphs 1 through 19.

21. Applicant has knowledge of substantial use by others of the name "LAUGHLIN" in conjunction with goods in Classes 016, 025, and 026 including but not limited to decals, jackets, caps, shirts, patches and pins.

22. Applicant knows that there are hundreds of vendors selling thousands of items sold in conjunction with tourism in the Southern Nevada area bearing the name "LAUGHLIN".

23. At least as early as 1994, Applicant knew of Good Sports use of the word "LAUGHLIN" in commerce on goods in Classes 016, 025, and 026.

24. Applicant's claim of acquired distinctiveness of the word "LAUGHLIN" is fraudulent and contains false information, because on July 13, 2007 Applicant knew of the substantial use of the word "LAUGHLIN" by Good Sports and others in commerce on or in connection with the sales of goods in Classes 016, 025, and 026.

WHEREFORE, Opposer respectfully requests that the instant Opposition be sustained and registration for the '857' Application be refused because:

A. "Laughlin" is primarily geographically descriptive;

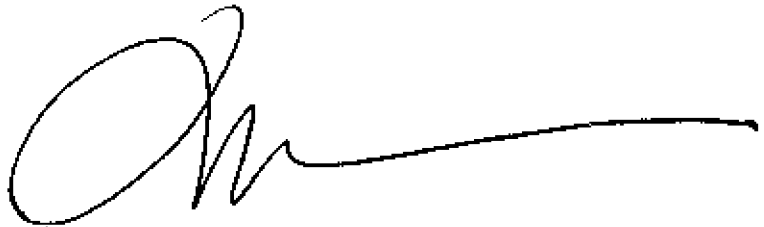
B. "Laughlin 2008" is a combination of descriptive and geographically descriptive terms;

C. The claim of acquired distinctiveness under Section 2(f) is falsely and fraudulently stated.

The fee required under 37 C.F.R. § 2.6(a)(17) has been paid with the submission of this opposition paper. Pursuant to 37 C.F.R. § 2.101(a), the Opposer has mailed a copy of this opposition to the Applicant by First Class U.S. Mail on this date.

Respectfully submitted,

**Good Sports, Inc.**

A handwritten signature in black ink, appearing to be 'Mario G. Ceste', with a long horizontal flourish extending to the right.

By: \_\_\_\_\_  
Attorney for Opposer,

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USPTO Reg. No. 44,068



**CERTIFICATION**

This is to certify that on January 16, 2008 , a copy of the foregoing was sent by First Class U.S. Mail on this date to:

Elizabeth A. Linford  
Attorney for the Applicant  
Ladas & Parry LLP  
5670 Wilshire Boulevard Suite 2100  
Los Angeles, California 90036

**Attorney for Opposer,**

By: \_\_\_\_\_

Mario G. Ceste

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